

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In regards to SPIEGEL, INC., et al.,
Reorganized Debtors.

) Chapter 11
) Case No. 03-11540 (BRL)
) (Jointly Administered)
)
)
) Claim No. 4248

JACQUELINE J. JOHNSON
Claimant

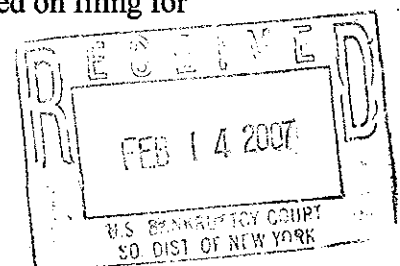
**RESPONSE OF JACQUELINE JOHNSON (CLAIM 4248) TO SPIEGEL
CRIDITOR TRUST'S RESPONSE TO MOTION FOR REQUEST FOR
RECONSIDERATION OF ORDER GRANTING TWENTY-FORTH
OMNIBUS OBJECTION TO PROOFS OF CLAIM WITH RESPECT TO
CLAIM NUMBER 4248 FILED BY JACQUELINE JOHNSON**

Jacqueline Johnson in the above referenced action hereby submits this Response.

The response is to The Spiegel Creditor Trust's response to claimant's Motion Request for Reconsideration of Order Granting Twenty-Fourth Omnibus Objection to Proofs of Claim with Respect to Claim Number 4248. Jacqueline Johnson filed the Motion. In support of this Response, Jacqueline Johnson states as follows:

ANSWER TO PRELIMINARY STATEMENT

1. Claimant was employed by Spiegel, Inc. ("Spiegel") from 1987 through 1990. Claimant has filed charges of discrimination with these agencies The Department of Human and counter filed with the Equal Opportunity Commission. Complainant does not recall how many since they were combined.
2. Claimant did not receive order disallowing her claim, for almost 3 wks (11-3-07) after, it was supposedly mailed by Creditor (12-19-06).
3. Claimant was awaiting more information, and intended on filing for reconsideration had the notice reached claimant on time.



4. Claimant filed charges against Creditor on September 23, 2002 for retaliation and transmitting negative employment referrals. See Exhibit

5. Claimant cannot verify Creditor's copy of the proof of claim without having the exhibit (E) that Debtor cited. Claimant is only in receipt of exhibits A-C.

6. Claimant is file a response to the Twenty-Fourth Omnibus Objection.

7. Claimant is missing Exhibits G,H, and I. The Department of Human Rights dismissal was not a final order. Debtor believes that claimant's charges were dismissed and that claimant had no chance to recover after the DHR's dismissed the charge. When the Department dismisses a charge for lack of substantial evidence as in the present case, the dismissal occurs during the investigatory or fact-finding stage. Thus, the issue before this court is whether due process attaches to the investigatory stage. This question was directly addressed by the United States Supreme Court in *Hannah v. Larche* (1960), 363 U.S. 420, 80 S.Ct. 1502, 4 L.Ed.2d 1307. Claimant has Sue Rights See Exhibit A

FNI. The Human Rights Act superseded the Fair Employment Practices Act.

The dismissing of the Department of Human Rights and Equal Opportunity Commission charges do not mean, that complainant loses her chance for recovery.

the Department of Human Rights (investigatory) and The Human Rights Commission (adudicatory).

It is well-recognized that until a complaint is issued by the Department, the proceedings are investigatory and not adjudicatory. This distinction has been expressly preserved by the Act as evidenced by the legislature's creation of two agencies: the Department and the HRC. The Department is the investigatory agency, whose duties commence when a charge is filed and end when the Department files a

complaint with the HRC, the adjudicatory agency. The HRC's duties commence when the complaint is filed by the Department or when a party files a Request for Review and ends when the HRC issues an order. Board of governors of State Colleges and Universities v. Illinois Human Rights Comm. (1982), 109 Ill.App.3d 946, 65 Ill.Dec. 478, 441 N.E.2d 391.) With respect to the first part of the inquiry, in Logan v. Zimmerman Brush Co. (1982), 455 U.S. 422, 102 S.Ct.1148, 71 L.Ed.2d 265, The Supreme Court held that under Fair Employment Practices Act's [FNI] administrative and adjudicative procedures was a property right protected by the due process clause. Having determined that the complainant possessed a property right in the right to file a claim under the Act, the next inquiry is what process is due to complainant. Claimant has Sue Rights See Exhibit A

Debtor would have this court believe and rest on the fact that the EEOC's dismissal is final and that Claimant has no right to recover or entitled to her day in court. According to Kremer v. Chemical Construction Corp. Claimant had the right to file a claim in federal court. This was the reason claimant has requested this court to reconsider the order dismissing claimant's claim, to protect her right under Title VII of the Act. **The Act clearly provides for review by the HRC of the Department's order and judicial review of the HRC's final order.** Moreover, if the alleged discrimination falls within the protections of Title VII (42 U.S.C. <section> 2000e-2), **provide the *235 complainant does not seek state judicial review; he or she may file the claim in FEDERAL COURT.** Kremer v. Chemical Construction Corp. (1982), 456 U.S. 461, 102 S.Ct. 1883, 72 L.Ed.2d 262. According the EEOC claimant has a right to sue, and claimant has protected that right by filing her complaint with the FEDERAL COURT in

Chicago, Illinois. See Exhibit C. Further more Claimant rights to recover does not fall under the Debtors' Modified First Amended Joint Plain of Reorganization dated May 23, 2005, See Exhibit M, since Claimant originally filed her complaint with the EEOC and DHR's on September 23, 2002. The she has protected her right to bring Suit against Debtor. This was Claimant does not lose her right to recover because of the EEOC's dismissal. But, if Claimant fails to file her Suit with in the 90 days allowed by the EEOC, she has lost any and all rights to recover under the protected rights of Title VII of the Act.

8. Claimant filed a response to asking for additional time while the EEOC reviewed her complaint. See Exhibit B

9. The EEOC issued a Notice of Dismissal and Right to Sue. **The Department is the investigatory agency, whose duties commence when a charge is filed and end when the Department files a complaint with the HRC, the adjudicatory agency.** Board of governors of State Colleges and Universities v. Illinois Human Rights Comm. See Exhibit A and D

10. Claimant cannot verify Debtors response to number 10 with out proof attached.

11. Claimant did not attend the hearing on December 19, 2006 and did send a response.

12. An order was entered disallowing and expunging Claimant's claim.

13. Claimant disagrees that the Order was mailed on December 19, 2006 or it was sent First Class mail. Claimant demands proof of service (Certification, Federal Express, Next Day Service, and or Delivery Conformation. Which would be proof of the

delivery date

14. Claimant was asking for a reconsideration of the order for December 19, 2006. In order to file to the appellate court I would have to have requested reconsideration.

15. Debtor is asking this court to believe that this notice was mail to Claimant, because of an affidavit with no signature of a clerk who works for them, who states and supposedly mailed a copy of the order by first class mail. There is no evidence on the envelope to prove it was mailed First Class. See Exhibit E. Debtor accuses Claimant of lying about receiving the order in time by mail. What make Debtor anymore believable than Claimant? Claimant has proof of when she received her copy. See Exhibit E, F, and G.

19 In answer to Debtors no. 19. Debtor cites Fed. R. Bankr. P. 9022 Model Local Bankruptcy Court Rules for Electronic Case Filing, Endorsed by the Judicial Conference of the United States September 2003 states as follows: Under Rule 10-otice of Court Orders and Judgments, as cited by Debtor Fed.R.Bankr.P. 9022, immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to **Filing Users** in the case (Claimant is not a Filing Users), in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. **The clerk must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.** Claimant never received court order dismissing and expunging Claimant's claim in paper form the clerk of the United States Bankruptcy Court Southern District of New York.

See Exhibit K and J.

25. Claimant denies that she made any statement about Creditor rigging the metered stamp machine and Claimant further states, she never mentioned anything about a affidavit of service, because she never received one, (She never got an Affidavit of Service with the Order of December 19, 2006).

Foot note for Debtors response on page 10, Claimant states as follows: she admits she call Debtors attorney to ask why the claim was denied, Claimant denies having a conversation with mail personal while Debtors attorney was on the phone. Claimant demands proof thereof of any allegations in this footnote. See Exhibit F, G, and H.

28. Debtors attorney has conformed to name-calling in an effort to degrade Claimant's character. Calling Claimant a Serial Litigant is a defilation of Claimant's character. By calling Claimant this name he is comparing her a joke and using the word serial litigant as the police would use to describe Jeffery Dormer. Claimant only uses her voice to protect her rights under the law. Debtor is the responsible person, they discriminated against Debtor, and any name-calling should be directed towards them. It is the Debtors error in discriminating against Claimant and these charges are a result of that discrimination. See Exhibit I

Claimant has attached copies of her complaint with her Congressman (Jessie L. Jackson), who is in the process of investigating Claimant's request to reopen the investigation with the EEOC, of the Human Rights dismissal of Claimant's Charge. See Exhibit L. For the above reasons (under excusable negligence), and to protect Claimant's right under the Act to recover, Claimant's motion to reconsider should be granted.

Jacqueline Johnson Pro-se
10305 S. Bensley Ave

Chicago, Illinois 60617
773 374-7581

EXHIBIT A

In reference
to the
charge filed
9-23-02

DISMISSAL AND NOTICE OF RIGHTS

To: **Jacqueline J. Johnson**
10305 S. Bensley
Chicago, IL 60617From: **EEOC**
Chicago District Office
500 West Madison Street, Suite 2800
Chicago, Illinois 60661-2511☐On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

21B-2003-01343**Nola Smith, State and Local****(312) 886-5973**

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans with Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☐

Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.

☐

While reasonable efforts were made to locate you, we were not able to do so.

☐

You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



NOV 8 2006

Enclosure(s)

John P. Rowe, District Director

(Date Mailed)

cc: **Douglas Deutsch**
Chadbourn & Parke LLP
30 Rockefeller Plaza
New York, New York 10112

EXHIBIT B

September 23, 2004

To Ms Nola Smith
EEOC
500 West Madison St. Suite 2800
Chicago, Illinois 60661
312 353-2713

From: Jacqueline Johnson
Complainant
EEOC Charge No. 21BA31343
10305 S. Bensley Ave.
Chicago, Illinois 60617
773 374-7581

RE: Request to let EEOC review Department of Human Rights Dismissal of the above charge.

I want the EEOC to review the above charge.

Sincerely Yours,



Jacqueline Johnson
Charging Party

To Nola Smith
EEOC
Phone No. 312 353-2713
Fax No. 312 353-4011

From: Jacqueline Johnson
Charging Party 21 BAW31343
773 374-7581 or 773 640-1460

EXHIBIT C

CIVIL COVER SHEET

JS-44 (Rev. 3/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Jacqueline Johnson

(b) County of Residence of First Listed

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Spiegel Inc

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

10305 S. Bensley Ave Chgo IL 60617 73374-7581

Attorneys (If Known)

1575 W. 22nd St. Oak Brook IL 60526

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 2 Incorporated or Principal Place of Business in This State ☐ 3 ☐ 4
- Citizen of Another State ☐ 5 Incorporated and Principal Place of Business in Another State ☐ 6
- Citizen or Subject of a Foreign Country ☐ 7 ☐ 8 Foreign National ☐ 9 ☐ 10

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Inj.	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 430 Securities <input type="checkbox"/> 440 Unemployment Compensation <input type="checkbox"/> 450 Labor Disputes <input type="checkbox"/> 460 Other
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Retaliation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$100,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. This case

☒ is not a refiling of a previously dismissed action.☐ is a refiling of case, previously dismissed by Judge

DATE

SIGNATURE OF ATTORNEY OF RECORD

RECEIVED

FEB 06 2007

MICHAEL W. DOBBINS
CLERK, U. S. DISTRICT COURT

APPEARANCE FORM FOR PRO SE LITIGANTS
DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

Information entered on this form is required for any person filing a case in this court as a pro se party (that is, without an attorney).

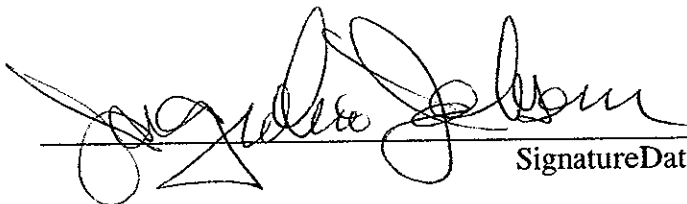
NAME: Sacquelone Johnson
(Please print)

STREET ADDRESS: 10305 S. Bensley Ave.

CITY/STATE/ZIP: Chgo, Ill 60617

PHONE NUMBER: 773 374-7581

CASE NUMBER: 07CV747
JUDGE BUCKLO
MAGISTRATE JUDGE COLE



SignatureDate

05-06-2004 15:02

From-ILL DEPT HUMAN RIGHTS

3128146251

T-689 P 002/007 F-656

**STATE OF ILLINOIS
DEPARTMENT OF HUMAN RIGHTS
INVESTIGATION REPORT**

DHR NO. 2003CF2410 EEOC NO. 21BA31343

COMPLAINANT

Jacqueline J. Johnson

RESPONDENT

Spiegel, Inc.

I. Issue/Basis

A. Negative job referral/retaliation

II. Finding

A. Lack of substantial evidence

III. EGL**IV. Jurisdiction**

Alleged violation

April of 2002

Charge filed

September 23, 2002

Perfect date

February 13, 2003

Amendments

None

Number of employees

>15 at time of alleged harm**V. Uncontested Facts**

A. Complainant was employed by Respondent from September 20, 1987 through May 7, 1990. Complainant held the position of clerk while employed by Respondent.

B. Complainant has filed at least four charges of discrimination alleging various employment harms and bases against Respondent throughout the 1990s. Complainant has also sued Respondent several times in various forums. The most recent discrimination charge filed by Complainant against Respondent prior to the instant

05-06-2004 15:04 From-ILL DEPT HUMAN RIGHTS

3128146251

T-689 P 007/007 F-656

Charge No. 2003CF2410
Page 6 of 6

protected activity took place. Therefore, there can be no inference that the alleged employment harm was motivated by retaliatory animus. No nexus has been established between the alleged employment harm and Complainant's prior protected activities.

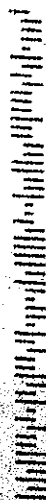
VIII. LIST OF WITNESSES

- A. Complainant
10305 S. Bensley
Chicago, IL 60617
(773) 978-5646 (ffc)
- B. Deborah Divis, Assistant General Counsel
Spiegel, Inc.
3500 Lacey Road
Downer's Grove, IL 60515
(630) 769-2595 (ffc)

IX. LIST OF EXHIBITS

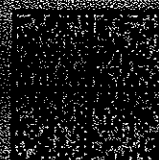
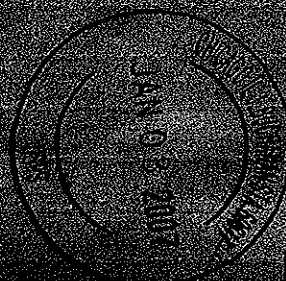
- A. Employment referrals.
- B. November 11, 2001 subpoena certification.

EXHIBIT E



CHADBOURNE
PARKE

Jacqueline J. Johnson
10305 South Bensley
Chicago, Illinois 60617



02 JAN 10 2007
10041616475
MAILED FROM ZIP CODE 60617

no first class stamp

EXHIBIT F

2/12/07

I Alonzo Lucas am over 18 I stay at 10301 S. Bensley next to Mrs Johnson and she stays at 10305 S Bensley. on 1/3/07 I was talking with Mrs Johnson outside when she Received her Mail from the Mailman One was a gray envelope which was about 9x11.

on 1/3/07 Mrs Johnson Ask me to take her to the postoffice so Mrs Johnson could talk with someone in charge ~~was~~ so Mrs Johnson could get her envelope stamped and dated which was stamped for 1/3/07. And Mrs Johnson gave me a copy of the envelope which will be with this letter

Alonzo Lucas

Subscribed and sworn to before me

this 12 day of February 2007
at Chicago, County of Cook, State of Illinois.

Notary Public Sandra Taboada



EXHIBIT G

John J. Buchanan Station
9308 S. Chicago Avenue
Chicago, IL 60617-9998



February 12, 2007

To whom this may concern,

I am writing this letter on behalf of Jacqueline Johnson, who resides at 10305 S. Bensley, Chicago, IL 60617. On January 3, 2007 she received a letter from Chadbourne & Parker LLP. She came into our Post Office requesting a date stamp to show when this mail piece was received. We did provide Ms. Johnson with a stamp on the face of this mail piece. We acknowledge that the postage was paid by the mailer.

Karen K. Eddings
Supervisor, Customer Services
60617-9998

773-221-9578

EXHIBIT H

from the certificate of mailing by a simple affidavit to the contrary, the scheme of deadlines and bar dates under the Bankruptcy Code would come unraveled.")). At best, this is what this Court is faced with.² Johnson must do more than claim that she did not receive the Order in time to overcome the presumption of receipt. Self-serving statements are insufficient. As such, Johnson has again failed to demonstrate a reason for the delay and, therefore, there is no excusable neglect.

C. Johnson is Not Acting in Good Faith.

27. The final factor for an excusable neglect analysis is to ask whether the movant acted in good faith. Courts are willing to infer bad faith from the overall behavior of the party throughout the proceeding. *See In re Weiss*, 111 F.3d 1159, 1173 (4th Cir. 1997). In fact, courts have not hesitated to dismiss appeals of bankruptcy court orders where, for example, "the record demonstrates a consistent pattern of dilatoriness or multiple failures to comply with deadlines." *See In re Telesphere Commc'ns, Inc.*, 177 F.3d 612, 616 (7th Cir. 1999); *see also In re Spiegel Inc.*, Case No. 03-11540, 2005 Bankr. LEXIS 2812, at *5 (Bankr. S.D.N.Y. Oct. 31, 2005) (after finding that appellant's delay in filing timely appeal was not justified by excusable neglect, the court noted that "given the history of motion practice in this case, this effort to further draw out litigation will not be countenanced ...").

² Although legally irrelevant, it appears that Johnson obtained a purported postmark from the post office dated January 3, 2007 simply by asking the post office to stamp it on that date. The "postmarking" occurred allegedly after the delivery of the envelope when, while counsel to the Creditor Trust was on the phone with Johnson, Johnson tracked down her postal carrier on the street, told the postal carrier that she had just received an envelope and asked the postal carrier how she could verify that it was received on this date. The postal carrier told Johnson that she should go to the post office and ask them to date stamp the document. This last step was apparently taken after counsel hung-up from the call. Given the way the date stamp was obtained, these facts would not be much different than Johnson signing an affidavit that attests to the date of receipt. In any event, it clearly does not rebut the presumption of delivery.

EXHIBIT I

28. Johnson appears to be a serial litigant. She has filed, according to the Investigative Report from the State of Illinois Department of Human Resources, at least four charges of discrimination against Spiegel and has sued Spiegel in various forums. *See Exhibit C.* All of the other charges and suits against Spiegel have been dismissed. Moreover, this is not the first time Johnson has failed to act timely in recent post-bankruptcy filing history. As set forth in the Supplemental Statement, the Appellate Court of the State of Illinois, First District, First Division, dismissed Johnson's petition for review for want of prosecution in March of 2005. These facts demonstrate that Johnson is not acting in good faith. Moreover, the wild allegations with respect to counsel to the Creditor Trust are without merit, are damaging and, *a fortiori*, are not brought in good faith.

29. In summary, it is clear from the papers filed in this case that Johnson seeks to continually delay and hinder the disallowance of her frivolous claim. This should not be allowed to continue. Johnson is not acting in good faith and her request for an extension on the basis of excusable neglect should, accordingly, be denied on this basis also.

II. Johnson's Motion for Reconsideration Should Also be Denied

30. We assume that Johnson is also seeking reconsideration of the Disallowance order under Bankruptcy Rule 3008 and section 11 U.S.C. § 502(j) of the Bankruptcy Code. Such a motion will be considered pursuant to FED. R. CIV. P. 60, which allows a party to move for relief from judgment on any of several grounds and is incorporated into the Bankruptcy Code through Bankruptcy Rule 9024.

EXHIBIT J

U.S. Bankruptcy Court
Eastern District of Kentucky

Local Rule 6

RULE 6. PROCEDURES FOR FILING DOCUMENTS

6.1 Scope of Electronic Filing (5005-4)

a. Electronic Filing Required

All pleadings and documents filed with the Court must be filed electronically - except as expressly provided below in 6.1(b).

A computer terminal is available in the Customer Service area - Room 450 - of the Clerk's Office for electronic filing by Filing Users.

b. *Pro Se* Filing

Parties without legal representation (*pro se* debtors) are not required to file pleadings and other papers in a case electronically, but must adhere to the following requirements:

1. All petitions must be typewritten.
2. All petitions must include the telephone number of the *pro se* debtor.
3. All petitions, statements of affairs and schedules must:
 - A. be filed within fourteen (14) days of their execution; or
 - B. a properly executed amendment must be filed indicating the changes - if any - that have occurred between the date of execution and that date of filing;
4. An original of the petition, lists, schedules and statements under the selected chapter of the Bankruptcy Code must be filed; and
5. A matrix of creditors in the form prescribed by the Clerk must be filed.

c. Creditor Filing

Proofs of Claim, Assignments/Transfer of Claims, Withdrawals of Claim, Reaffirmation Agreements and Request for

Notice filed by a creditor or other filer shall be filed electronically if the creditor or other filer files more than 25 of those

documents within a one year period. See 6.2(b)

6.2 Eligibility, Registration and Passwords for Electronic Filing (5005-4), (3001-1), (9076-1), (9022-1), (9011-3), (9010-1)

Procedure and the Local Rules.

6.9 Notice of Court Orders and Judgments (9022-1)

a. Requirements for Notice and Service by Clerk

Immediately upon the entry of an Order or Judgment in the Electronic Filing System, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing which constitutes the notice required by Fed.R.Bankr.P. 9022.

b. Notice and Service by Clerk for Non-Electronic Filing Users

The Clerk must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

c. Notices to Debtors

1. The debtor's attorney is responsible for service of resulting Orders upon the debtor. Resulting Orders include the following:

- A. Orders from hearings;
- B. Orders related to motions and applications that were noticed for objection;
- C. Orders allowing payment of a filing fee in installments; and
- D. All other Orders from motions and applications that were considered by the Judge.

2. The Clerk shall only serve Orders to a debtor that give notice required under Fed.R.Bankr.P. 2002, which includes but is not limited to the following:

- A. Orders setting a hearing;
- B. Orders of dismissal and conversion;
- C. Orders of discharge; and
- D. Orders of confirmation.

6.10 Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court through a motion and order, except in the case of filing a Notice of Appeal or Dischargeability Complaint.

6.11 Public Access

a. Electronic Access to Court Information

Any person or organization - other than one registered as a Filing User under L.B.R. 6. 2 - may access the Electronic Filing System at the Court's Internet site at

P 2

EXHIBIT K

Model Local Bankruptcy Court Rules for Electronic Case Filing

Endorsed by the Judicial Conference of the United States

September 2003

other method, including other forms of electronic service such as fax or direct e-mail.

4. An amendment to Fed.R.Bankr.P. 9006(f) provides that the three additional days to respond to service by mail will apply to electronic service as well. The Committee Note on the parallel amendment to Fed.R.Civ.P. 6(e) states:

Electronic transmission is not always instantaneous, and may fail for any number of reasons. It may take three days to arrange for transmission in readable form. Providing added time to respond will not discourage people from asking for consent to electronic transmission, and may encourage people to give consent. The more who consent, the quicker will come the improvements that make electronic service ever more attractive.

5. While some courts accept the Notice of Electronic Filing as a certificate of service, other courts require a separate certificate of service to be included with the filed document indicating that the document was electronically filed using the CM/ECF system and the manner, electronically through the Notice of Electronic Filing or otherwise, in which parties were served.

Rule 10– Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The clerk must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

Derivation

The Model Rule is adapted from the Eastern District of New York procedures.

Commentary

1. Amendments to Fed.R.Bankr.P 9022 authorize electronic notice of court orders where the parties consent. The Model Rule provides that for all Filing Users in the electronic filing system, electronic notice of the entry of an order or judgment has the same force and effect as traditional notice. The CM/ECF system automatically generates and sends a Notice of Electronic Filing upon entry of the order or judgment. The Notice contains a hyperlink to the document.

EXHIBIT L

To: Congressman Mr. Jessie L. Jackson Jr.
In care of: Mr. Jeffery Mingle
17926 S. Halsted Street
Homewood, Illinois 60436
Phone No. (708) 798-6000
Fax No. (708) 798-6160

From: Jacqueline Johnson
10305 S. Bensley Ave.
Chicago, Illinois 60617
Phone and Fax No. (773) 374-7581
Cell No. (773) 726-0884

Dear Mr. Mingle:

I'm writing to you in regards to our conversation on or around December 2006; at that time we talked about the problems I was having with my complaint at the EEOC. I would like to take this time to bring you up to date as to what led me to contact you. These are the facts set forth in this complaint:

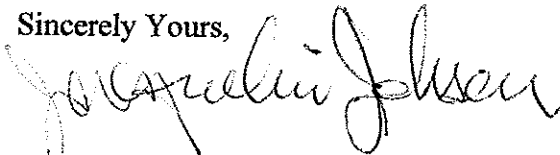
1. I originally filed a complaint against Spiegel's Inc. and the Chicago Board of Education with The Department of Human Rights for cohesion.
2. I dropped the state portion for the Board of Education with DHR's and asked the EEOC to investigate it.
3. Sufficient evidence was found against the Board of Education.
4. On or about December of 2006 I call to the EEOC to speak with Nola Smith, in response to a conversation we had in November of 2006 regarding my Spiegel complaint. She told me, she had reviewed my Spiegel charge from the year prior to find out why I never received a right to sue on that. Since it had been dismissed from the Department of Human Rights for insufficient evidence and my charge filed against Board of Education charge under cohesion. I asked how one Respondent (Board of Education) could be guilty and the other not (Spiegel Inc.). She agreed to review my complaint with Spiegel. She did and said; she saw no mistakes in the investigation done by DHR's. I asked Ms. Smith while she was reviewing my files, did she read any statements from my witnesses? She told me she saw no witnesses for me only the Respondent. She told me to review my files to make sure everything was there and nothing was missing from it, and if there were she would reconsider reviewing it again. She also told me in that conversation, that she was issuing me a right to sue letter. I asked her to hold off on sending the right to sue until, I told her attorney for Spiegel said I couldn't file if I received a right to sue. She said still had a right to file suit and not to worry about what he said. She said she was sending it any way and that I had 90 day to file or my right would be lost. After reviewing my file, low and behold some things were missing, like the names I had given to the investigator as witness (Ms XXXX and Mr. XXXX) also an exhibit section was missing. I tried contacting

Ms. Smith for about a week, to let her know what I had found, but to no avail. Finally, I went into the office (EEOC). Ms. Smith was not there, so I spoke with her supervisor (name unknown) and gave her the latest info on my files. Last week Friday January 19, 2006, I called to talk to lady, who's name I don't recall in hopes, that she left some note as to our conversation in May of 2006, and to let her know, I was still waiting to have my problem cleared up.

5. On today, I called Nola Smith a finally got a chance to talk to her. She had received the info from her supervisor. I asked her to retract the right to sue and open my complaint for reinvestigation on the merits and the fact that my witnesses were never contacted by the DHR's, and that this was a failure to properly investigate my complaint under the law of employment discrimination.

I asking my Congressman to investigate and correct my issue with the above agencies, in order to protect my Civil Rights as an America and Human Being. The Department of Human Rights failed to properly investigate my complaint by contacting my witnesses. By not contacting my witnesses and contacting the Respondent witnesses they are accused of being bias, and interfering with my right for recovery. My case was closed without hearing merits of my complaint. Also information was not safely secured, items were missing from my file. Please reply.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Jacqueline Johnson".

Jacqueline Johnson
Constituent

AT&T Yahoo! Mail

Search: [redacted]

Web Search



at&t

YAHOO!
MAIL

Welcome, [redacted]
[Sign Out, My Account]

Mail Home Tutorials
Help

Mail

Addresses

Calendar

Notepad

Mail For Mobile
- Mail Upgrades
- Options

Check Mail

Compose

Search Mail

S

Folders [Add - Edit]

Inbox (38)

Draft

Sent

Bulk (347)

[Empty]

Trash [Empty]

My Folders [Hide]

CDL

Search Shortcuts

My Photos

My

Attachments

Previous | Next | Back to Messages

Delete

Reply

Forward

Spam

Move...

Printable View

From: "Mingo, Jeffery"
<Jeffery.Mingo@mail.house.gov> Add to Address Book Add Mobile Alert

To: "johnson [redacted] [redacted] net"
<johnson [redacted] [redacted] net>

Subject: Copy of Inquiry 1/27/7

Date: Mon, 12 Feb 2007 17:35:38 -0500

January 27, 2007

Ms. Eileen Sotak

VIA TELEFAX: (312) 353-4041

Congressional Liaison

U.S. Equal Employment

Opportunity Commission (EEOC)

500 West Madison Avenue, Suite 2800

Chicago, Illinois 60661

Dear Ms. Sotak:

I write on behalf of my constituent, Mrs.

Jacqueline Johnson, of 10305 South Bensley Avenue, Chicago, Illinois, 60617. Her charge number is 21BA31343.

Mrs. Johnson maintains that the EEOC did not thoroughly investigate her claim and that the Department of Justice may have acted unethically against her. I kindly ask that you read her allegations and reply to each of them.

I respectfully ask that you provide full and fair consideration to Mrs. Johnson's request consistent with applicable law and regulations. In addition, please respond to my Special Assistant, Mr. Jeffery Mingo, at 17926 South Halsted Street, Homewood, Illinois, 60430.

I thank you in advance for your attention to this matter. I look forward to receiving your reply.

Sincerely,

<<...OLE_Obj...>>

Jesse L. Jackson, Jr.
Member of Congress

JLJJr.:JM:jm

Enclosure

cc: Mr. William Moschella, Department of Justice

EX K

Delete

Reply

Forward

Spam

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In regards to SPIEGEL, INC., et al.,
Reorganized Debtors.

) Chapter 11
) Case No. 03-11540 (BRL)
) (Jointly Administered)
)
)
) Claim No. 4248

JACQUELINE J. JOHNSON
Claimant

PROOF OF SERVICE

I Jacqueline J. Johnson, being first duly sworn on oath, state that I have served a copy of the attached response to the Spiegel Creditor Trust a copy of RESPONSE OF JACQUINE JOHNSON (CLAIM 4248) TO SPIEGEL CRIDITOR TRUST'S RESPONSE TO MOTION FOR REQUEST FOR RECONSIDERATION OF ORDER GRANTING TWENTY-FORTH OMNIBUS OBJECTION TO PROOFS OF CLAIM WITH RESPECT TO CLAIM NUMBER 4248 FILED BY JACQUELINE JOHNSON upon each person named below by depositing next day mail, fax and 1st class mail depositing the same this 12th day of February 2007 at post office located at 95th and South Chicago, in Chicago, Illinois 60617 and from Fax no. 773 374-7581 to 212 541-5369 Attention Douglas E. Deutsch at CHADBOURNE & PARKE LLP

(X) RIST CLASS MAIL

(x) FAX NO.

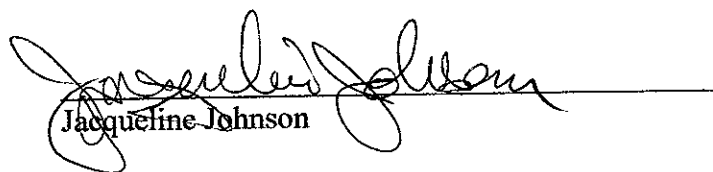
CHADBOURNE & PARKE LLP
Attention: Douglas E. Deutsch
30 Rockefeller Plaza New, York,
New, York 10112

CHADBOURNE & PARKE LLP
212 541-5369 Attention Douglas
E. Deutsch

(X) NEXT DAY MAIL

CHAMBERS AND CLERKS OFFICE OF JUDGE BURON R. LIFLAND

1 Bowlinggreen
New York, New York 10004


Jacqueline Johnson

